IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

Cheryle Knecht,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 3:16-cv-245
	)	
First National Collection Bureau, Inc.	)	Jury Trial Demanded
	)	
Defendant.	)	
	)	

COMPLAINT

INTRODUCTION

1. This is an action for damages against the Defendant for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§1692 et seq.

JURISDICTION

2. Subject matter jurisdiction in this Court is proper pursuant to 15 U.S.C. §1692k(d) and 28 U.S.C. §1331 (federal question jurisdiction).

3. This action arises out of violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§1692 et seq. (hereafter referred to as "FDCPA") by Defendant, in its illegal efforts to collect a consumer debt.

4. Venue is proper in this District because the acts and transactions occurred here, Defendant transacts business here and Plaintiff resides here.

PARTIES AND PERSONAL JURISDICTION

5. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 4 above as if set forth fully herein.

6. Plaintiff, Cheryle Knecht, (hereafter referred to as “Plaintiff”) is a resident of this State, District and Division and is authorized by law to bring this action.

7. Defendant First National Collection Bureau, Inc. (hereafter referred to as “Defendant”) is a “debt collector” as defined by 15 U.S.C. §1692a(6), and a for-profit corporation organized in Nevada, with its principal office located at 610 Waltham Way, Attn. Suzie Reynolds, McCarran, Nevada, 89434-6695 and maintains LexisNexis Document Solutions, Inc., 2908 Poston Ave., Nashville, Tennessee, 37203-1312, as its registered agent for service of process.

8. Other defendants may be discovered in the course of litigation, and Plaintiff respectfully prays that the Court will permit the addition of later discovered parties upon motion.

FACTUAL ALLEGATIONS

9. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 8 above as if set forth fully herein.

10. Defendant alleges Plaintiff incurred an obligation to pay money arising out of a transaction in which money, property, insurance or services which are the subject of the transaction are primarily for personal family or household purposes, and is therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

11. Specifically, Plaintiff previously had a financial obligation to Wells Fargo Bank, N.A. whereby payments were not made and the account was ultimately charged off.

12. Upon information and belief First National Collection Bureau, Inc. acquired the charged off debt from LVNV Funding LLC for Wells Fargo Bank, N.A.

13. On or around June 4, 2015, Plaintiff received a collection letter from Defendant. A copy of collection letter is attached as Exhibit 1 and incorporated herein by reference.

14. Plaintiff further asserts that she had not made any voluntary payments on this debt in the last six years prior to receiving the collection letter from Defendant.

CAUSES OF ACTION
FIRST VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT:
UNFAIR PRACTICES

15. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 14 above as if set forth fully herein.

16. That Defendant is using unfair, deceptive and misleading means in attempting to collect a debt that is time-barred in violation of FDCPA § 1692e (2)(A), § 1692e (5) and § 1692f (1).

17. That Defendant's collection letter infers the potential threat of legal action if Plaintiff does not "settle" this debt, even though the debt is time-barred from legal action.

18. In *Buchanan v. Northland Grp., Inc.*, the Sixth Circuit Court of Appeals found that a collection letter offering a "settlement" on a time barred debt could plausibly lead a "reasonably unsophisticated consumer" into thinking the debt was enforceable in court, even though the debt was time-barred from legal action. 776 F.3d 393, 398 (6th Cir., 2015).

19. Defendant's collection letter, much like the Northland collection letter, gave Plaintiff the opportunity to "settle" the debt. The *Buchanan* Court stated that "a 'settlement offer' on a time-barred debt may falsely imply that payment could be compelled through

litigation” and therefore could be misleading, violating FDCPA § 1692e (2)(A), § 1692e (5) and § 1692f (1) by falsely representing the character and or legal status of the alleged debt, by threatening to take any action that cannot be legally taken and by attempting to collect any amount of money from Plaintiff not permitted by law.

20. The Defendant is misleading the unsophisticated consumer into thinking she must “settle” this disputed, time barred debt or risk being sued.

21. As a result of Defendant’s actions, Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney fees.

22. In its attempts to collect the alleged debt as outlined above, Defendant damaged Plaintiff and violated the FDCPA.

WHEREFORE, Plaintiff prays for the following relief:

a. Judgment against Defendant for Plaintiff’s actual damages suffered as a direct and proximate result of Defendant’s violations of the FDCPA, pursuant to 15 U.S.C. §1692k(a)(1);

b. Judgment against Defendant for $1,000 in statutory damages for Defendant’s violations of the FDCPA, pursuant to 15 U.S.C. §1692k (a)(2)(A);

c. Judgment against Defendant for Plaintiff’s reasonable attorneys’ fees and costs incurred in this action, pursuant to 15 U.S.C. §1692k (a)(3); and

d. Any other legal and/or equitable relief as the Court deems appropriate.

Respectfully submitted this 17th day of May 2016.

Cheryle Knecht

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